MONTANA LEGISLATIVE HISTORY

Chapter 208 19 63

Bill H 42 S _____ Original bill & history ____C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Jan 10	✓C	Hearing Date(s)	Feb 26	✓C
	Jan 15	✓C			C
	Jan 16	✓C			C
		C			C
Date Out	Jan 16	✓C		Feb 26	✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

January 10, 1963

JUDICIARY COMMITTEE

Meeting of the House Judiciary Committee was held at 10:00 Thursday, January 10, 1963 in the Committee Room. Chairman Haughey presided.

Upon roll call all members of the committee were present.

House Bill No. 46 which was introduced by the Judiciary Committee on January 9 was considered. Motion was made by Rep. Bradford and seconded by Rep. Turnage that House Bill No. 46 Do Pass. Motion carried.

House Bill No. 42 in regard to the creation of joint tenancy was discussed for the committee by Rep. Lucas. This bill would save the necessity for an extra transfer, recording fee, and an extra entry. It was also stated by Chmn. Haughey that this procedure is outmoded--its purpose was years ago in regard to common law. A motion was made by Rep. Keller and seconded by Rep. Hemstad that House Bill No 42 Do Pass. This motion was withdrawn and a sub-motion made. Chairman Haughey then referred this bill to a sub-committee of one--Rep. Lucas--for an amendment consideration.

House Bill No. 41 was taken up and Rep. Murray announced that it has been checked with the Montana Bar Association and it is his understanding that they are in full agreement and accord. A motion was made by Rep. Dykstra and seconded by Murray that House Bill No. 41 Do Pass. Motion carried.

House Bill No. 40 was brought before the committee regarding the verification of pleadings and a motion was made by Rep. Dykstra and seconded by Rep. Lucas that House Bill No. 40 Do Pass. Motion Carried.

House Bill No. 16 was not acted on today but a report will be due from the sub-committee for a committee hearing during the week of January 14.

House Bill No. 3 was again considered as Dykstra reported on the bill to add charitable foundations and trusts as tax exempt. He stated that it has become necessary because we have more people creating trusts and foundations. The Board of Equalization has been consulted and they have no objections. If this is included in Montana law, it will provide a greater chance to benefit Montana.

January 15, 1963

JUDICIARY COMMITTEE

The House Judiciary Committee met in the Committee Room at 10:00 a.m. on Tuesday, January 15, 1963. Chairman Haughey presided.

Upon call of the roll all members were present with the exception of Rep. Keller.

House Bill No. 3 was first for discussion. Rep. Turnage discussed this bill for the committee as he explained that it allowed a more perpetuating feature for people who want to establish a trust. He also stated that the same bill came up two years ago and was passed in the House but not the Senate. This brought up the question: How much would it cost the state? He stated that it would cost the state nothing because they aren't getting it now. Conclusion of the Committee also included the fact that we are losing money, although not necessarily tax money. A motion was made by Turnage and seconded by Hemstad that this bill Do Pass. Upon further discussion by the Committee the motion was withdrawn and the bill was taken by Dykstra for consideration of a possible substitute bill.

House Bill No. 38 was next considered. This bill had been worked on by Keller and Turnage. Turnage reported on the amendment they had proposed and gave necessary definitions pertinent to the understanding of the Committee. It was moved and seconded by Murray and Dykstra that this bill Do Pass. Motion Carried.

House Bill No. 42--it was suggested that this bill be rewritten in the form of a substitute bill. Such motion was made by Murray and seconded by Dykstra.

House Bill No. 55 with regard to Indian Jurisdiction was introduced to the Committee for discussion. Rep. Turnage felt strongly about this bill and discussed for the Committee his hearty reasons. He stated that this bill was passed by the House last session. It went to the Senate and did not pass there. He further pointed out that this type of legislation is desired by the tribal council. In favor of such action, they have written into their code that the tribe shall cooperate. The bill does not force upon the reservations state jurisdiction without their consent. There is a good report issued by the Bureau of Indian Affairs. It is a study made available by the department and points out the real need for this type of legislation. With regard to the need for this bill, Lake County has been an "open" county for many years. Also, there are about ten non-Indians to one Indian on the reservation. Without authority in the state to

January 16, 1963

JUDICIARY COMMITTEE

The House Judiciary Committee met in the Committee Room at 9:00 a.m. on Wednesday, January 16, 1963. Chairman Haughey presided.

Upon call of the roll all members of the Committee were present.

The first order of business was the assignment by Chairman Haughey of House Bills No. 10,71, and 80 to a sub-committee consisting of Jensen, Bailey, and Lucas.

House Bill No. 79 was then discussed by the committee. This bill would change the time of contesting a will from one year to one month. The present one-year statute amounts to a delay beyond the normal time for distribution. The motion was made by Bradford and seconded by Keller that HB No. 79 Do Pass. The motion was carried. Further discussion included a question by O'Hair regarding times when it takes quite awhile to notify everyone concerned as heirs within the one year time. Dykstra then stated that from his point of view as Trust Officer in the Union Bank it has appeared the custom to file the will contest about two weeks before the one year is up. This is unnecessary and it is seldom if ever the case that an heir does not show up. Turnage further pointed out that it simply holds up the distribution to needy beneficiaries. Chmn. Haughey indicated that in the past such case couldn't be closed within a year anyway, but now since only four months notice is necessary before closing, they could be closed within six months.

A bill was submitted by Mr. Al Coates for consideration of introduction by the Committee. As requested, he has gone through the codes further and has listed additional statutes that should be repealed. Rep. Murray was appointed to a sub-committee of one to review this bill.

Substitute House Bill No. 42 as submitted by Lucas, Chmn. of the sub-committee, was moved and seconded by Dykstra and Bradford as Do Pass. Motion Carried.

Meeting adjourned.

James M. Haughey, Chairman

JUDICIARY COMMITTEE MEETING
February 26, 1963

The meeting was called to order by the Chairman. All members were present, except Senators Cumming, McGowan, McElwain and McDonnell.who were excused.

Senator Schoonover made a motion and was seconded by Senator Huntley that the committee recommend that Substitute House Bill 42 be concurred in. The motion was carried.

Senator Huntley made a motion and was seconded by Senator Gerard that the committee recommend that House Bill 384 be not concurred in. The motion was carried.

Senator Huntley made a motion and was seconded by Senator Dussault that the committee recommend that House Bill 387 be not concurred in. The motion was carried.

Senator Schoonover made a motion and was seconded by Senator Dussault that the committee recommend that House Bill 386 be not concurred in. The motion was carried.

Senator Schoonover made a motion and was seconded by Senator Dussault that House Bill 133 be recommended by the committee to be concurred in. The motion was carried.

Senator Huntley made a motion and was seconded by Senator Dussault that the committee recommend that House Bill 282 be concurred in. The motion was carried.

The meeting was adjourned.

Respectfully submitted,

Eugene Mahoney
Chairman

Patricia Dorrington
Patricia Dorrington, Secretary

members who had an option for a lesser retirement allowance filed in the retirement system office at the time of their death.

Beneficiary may elect to take death benefit.

(f) The beneficiary named in (e) above shall have the right within ninety (90) days of the member's death to elect to receive a death benefit instead of the benefit designated in (c) above."

Severability.

Section 3. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Repealing clause.

Section 4. All acts and parts of acts in conflict herewith are hereby repealed.

Effective immediately.

Section 5. This act is effective on its passage and approval.

Approved March 7, 1963.

CHAPTER 208

A Act to Provide that a Joint Tenancy, Ownership of Property May Be Established by Conveyance or Transfer of Such Property Without the Necessity of Transfer to or Through Any Third Person.

Be it enacted by the Legislative Assembly of the State of Montana:

Joint tenancy—conveyance by owner.

Section 1. A joint tenancy as to any interest in real property may be established by the owner thereof, by designating in the instrument of conveyance or transfer, the names of such joint tenants including his own, without the necessity of any transfer or conveyance to or through a third person.

Approved March 7, 1963.

CHAPTER 209

An Act to Amend Section 75-2701, Revised Codes of Montana, 1947, Relating to Earnable Compensation of the Teachers' Retirement System, and Providing That Full Compensation Received After July 1, 1961, May

Be Used in Computing Benefits, and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 75-2701, R. C. M. 1947, be, and the same is hereby amended to read as follows: Amending clause.

"Section 75-2701. **Definitions.** The following words and phrases used in this act shall have the following meaning unless a different meaning is plainly required by the content: Definitions.

(1) 'Retirement system' shall mean the teachers' retirement system of the state of Montana provided for in section 75-2702. "Retirement system."

(2) 'Retirement board' shall mean the retirement board provided by section 75-2703 to administer the retirement system. "Retirement board."

(3) 'Employer' shall mean the state of Montana or the board of trustees of any school district employing teachers subject to the provisions of this act; or any other agency of and within the state by which the teacher is paid. "Employer."

(4) 'Teacher' shall mean any teacher in the public elementary and high schools of the state, and the university of Montana, as constituted in accordance with section 75-401, including all kindergarten teachers in the public schools, and shall include any school librarian or physical training teacher, principal, vice-principal, supervisor, superintendent, county superintendent of schools, and any other member of the teaching or professional staff of any public elementary or high school of this state, and any administrative officer or member of the instructional or scientific staff of the university of Montana; provided that no person shall be deemed a teacher within the meaning of this act who is not so employed for fulltime outside vacation periods. The word 'teacher' shall also include any person employed in the office of or by the superintendent of public instruction in the performance of duties pertaining to instructional services. In all cases of doubt, the retirement board shall determine whether any person is a teacher as defined in this act. "Teacher."